

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

In the Matter of:

THE JOINT APPLICATION OF LOUISVILLE)
GAS AND ELECTRIC COMPANY AND)
KENTUCKY UTILITIES COMPANY DEMAND-)
SIDE MANAGEMENT FOR THE REVIEW,) CASE NO. 2007-0319
MODIFICATION, AND CONTINUATION OF)
ENERGY EFFICIENT PROGRAMS AND DSM)
COST RECOVERY MECHANISMS)
BROWNFIELD DEVELOPMENT RIDER)

TESTIMONY OF JACK E. BURCH

1. Please indicate your name, address and describe your current position and professional background.

My name is Jack E. Burch and I have served as Executive Director of Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. (hereinafter "The Council" or "Community Action Council") since 1979. The Council operates more than 30 neighborhood and community centers and child development centers in five counties. Its administrative offices are located at 710 W. High Street in Lexington, Ky.

I graduated from Vanderbilt University with a M.A. in economics and hold a B.A. from Rhodes College. I am the founder and President of the WinterCare Energy Fund, Executive Director of Community Action Council, and presently serve on the Columbia Gas Energy Assistance Program Collaborative and Kentucky Utilities (E.On) Customer Commitment and Energy Efficiency/Demand-Side Management Advisory groups.

2. Please describe the purpose of your testimony.

The purpose of my testimony is to state the position of Community Action Council with respect to the proposed Residential Low Income Weatherization Program, or WeCare, as currently operated and proposed to be operated by Louisville Gas & Electric Company and Kentucky Utilities. As an advocate on behalf of low-income customers, I wish to ensure the program is both approved and will be operated efficiently to best serve the interests of the intended beneficiaries as well as ratepayers. Community Action Council is a low-income advocacy and services organization.

3. Please describe the organization of Community Action Council and give a brief description of its activities.

Community Action Council was established in 1965 in accordance with KRS 273.405 et sequen as a not-for-profit community action agency of the Commonwealth of Kentucky. The Council's governance includes a Board of Directors representing the low-income, public and private sectors of the community. Its mission is to combat poverty.

There are approximately 260 employees operating and administering the Council's primary programs and services including:

- Self-sufficiency
- Child development
- Homeless programs
- Volunteer programs
- Youth development
- Transportation services
- Clothing banks
- Housing
- Energy assistance and conservation programs
- Emergency assistance
- Community outreach and referrals

Although the Council's core service territory includes Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, the Council also provides services in other counties and statewide. For example, the Council administers the WinterCare Energy Fund providing services across most of the state; child development services extend into Scott County; the Retired & Senior Volunteer Program extends into Jessamine County. The Columbia Gas Energy Assistance Program and Kentucky Utilities' Home Energy Assistance Program each provide services throughout the service territories of their respective utilities. The Council also operates the Kentucky American Water Help to Others (H2O) Program throughout the utility's service area.

The Council is uniquely positioned to speak on behalf of low-income populations with utility-related problems as its staff has extensive contact with and knowledge of this population. Additionally, Council staff members are able to help participants access other Council assistance programs as well as other community resources to address the multiple obstacles and barriers that most low-income households face. **This comprehensive approach provides greater stability and self-sufficiency to these households, supporting a family's ability to afford necessities such as utility service.**

4. Please describe in detail the Council's programs and services, especially those which partner with public utilities.

The Council operates a number of utility assistance programs in partnership with local utilities, public and private funding sources, and other community action agencies across the state. These programs are described below.

In 1983, Community Action Council initiated, with Kentucky Utilities, the **WinterCare Energy Fund**. The Council has provided administrative services, financial management and marketing support for the Fund since that time. The Council has managed the Federal **LIHEAP program (Low-Income Energy Assistance Program)** that serves low-income customers in Lexington-Fayette, Bourbon, Harrison and Nicholas Counties since its inception.

Also, since 1978, the Council has operated the federal **Weatherization Assistance Program** funded by the U.S. Department of Energy which provides energy audits and direct installation of weatherization measures. Additional detail regarding that program appears later in my testimony. Lexington-Fayette Urban County Government, through the U.S. Department of Housing and Urban Development, provides Community Development Block Grant (CDBG) funds for a **Weatherization Enhancement** furnace replacement program. That program provides furnace replacement in homes without a primary heat source.

In partnership with **Columbia Gas of Kentucky** and the network of community action agencies serving the Columbia Gas service territory, the Council currently administers a utility funded energy subsidy program serving 850 low-income households. Also, in cooperation with Columbia Gas, the Council formerly operated a "Buyers Club" for the purchase of natural gas, aggregating low-income and other customers for collective buying power within the Columbia Gas Choice Program.

The Council's **Summer Cooling** program serves seriously ill and disabled customers with the provision and installation of air conditioners. The Council also operates several other programs in furtherance of its mission to combat poverty.

The Council's **Head Start, Early Head Start** and **Migrant Head Start** child development programs have been recognized nationally. The organization also operates several housing programs, including two **Continuum of Care** projects funded by the Department for Housing and Urban Development. These projects help homeless families reconstruct their lives by working with the families to determine and address the causes of homelessness. Another housing program offered is the **Tenant Based Rental Assistance (TBRA)**, which provides assistance to Section 8-eligible households throughout the Council's service area.

Other programs include senior volunteerism projects **Retired & Senior Volunteer Program (RSVP)** and the **Foster Grandparent Program (FGP)**. To support economic independence, the Council offers a **Chase Financial Fitness** consumer education program that provides training on financial management and offers families the chance to save for a home, small business or higher education. Also, the Council works each year with community partners to provide tax preparation and education on the **Earned Income Tax Credit (EITC)** and how to apply.

5. Is the organization experienced in the field of low-income weatherization and demand-side management?

Since 1978, the Council has operated a Weatherization Assistance Program designed to help low-income individuals and families conserve energy. Weatherization services include caulking, weather-stripping, replacement of thresholds and door sweeps, re-glazing windows and replacing broken glass, outside wall repair, minor roof repair, attic insulating, repairing and replacing skirting around the foundation, under-floor insulation including wrapping pipes and insulating heat ducts, venting the attic and crawl spaces, and repairing or replacing heating equipment and venting systems. Weatherization is funded by the U.S. Department of Energy. All project reviews have been rated excellent or higher. There have been no audit findings or disallowances since the program's inception in 1978.

The Council also operates a Weatherization Enhancement furnace replacement program for low-income households without a primary heat source. That program is funded by a Community Development Block Grant (CDBG) allocation from the U.S. Department of Housing and Urban Development through Lexington-Fayette Urban County Government. The Council also operates a housing rehabilitation program in the three rural counties of its service territory. This program provides major home rehabilitation for low-income households through forgivable loans and is supported with federal HOME funding received through Kentucky Housing Corporation. The Council receives additional federal funding through Kentucky Housing Corporation for a Tenant Based Rental Assistance (TBRA) program and two separate Continuum of Care homeless programs.

Beginning in 2003 through 2005, the Council operated a demand-side management program through the Department of Health and Human Services, Office for Community Services, called REACH (Residential Energy Assistance Challenge). Also in 2003, the Council contracted with Honeywell to assist in carrying out the Kentucky Utilities "We Care" demand side management program in the Council's four core counties. That partnership continued through 2004, though the Council continues to provide energy conservation services, such as furnace replacement, through its Weatherization programming.

6. Are there initiatives through which Community Action Council already partners with the Companies? Please discuss.

The Council implemented and administers the Kentucky Utilities Home Energy Assistance (HEA) Program, which serves 1,300 KU customers whose primary heat source is KU electric by providing regular monthly subsidies throughout the winter and summer peak usage months. That program was recently renewed by order of the Public Service Commission.

In 2003 and continuing into 2004, the Council contracted with Honeywell to assist in carrying out the WeCare demand-side management program that is the subject of this case. The Council provided services as a sub-contractor within its four core service counties until the Council ended the partnership in 2004.

Finally, the Council and Kentucky Utilities annually co-sponsor the **Winterblitz** event in Lexington, which provides minimal weatherization measures in low-income homes. The Winterblitz program recruits and trains volunteers who then install low-impact weatherization measures for low-income individuals and families. The annual event is modeled after Project Warm in Louisville, Ky. It was first held in Lexington in 2005 and is expected to continue for 2008.

7. Why did Community Action Council end its partnership with Honeywell and Kentucky Utilities for the WeCare program?

Under that partnership, the WeCare low-income program was contracted to Honeywell which sub-contracted weatherization work to the Council. The Council was to install weatherization measures in low-income homes for contracted amounts. However, Honeywell retained too high a percentage of available funds for it to be financially feasible for the Council to provide measures required by the program. There simply wasn't enough funding left to be able to provide effective, quality weatherization measures in low-income homes.

8. Do you and your organization support or object to the Company's proposed Residential Low-Income Weatherization Program? Please explain.

While the Council does not object in principle to continuation of the WeCare program, we urge the Commission to consider that thus far, the program has been ineffective and inefficient and as such warrants substantial changes.

First, the companies continue to insist on either of two positions: a) that engineered savings provide an accurate measure of the program's effectiveness and should continue to be used; or b) that whether engineered savings should be used needs to be determined by the selected evaluator. It is The Council's position that the use of engineered savings represents an inaccurate method of calculation and provides the Commission with no useful information for determining the success or failure of the program. Engineered savings assumes full benefit is achieved through each energy-conserving measure and the

evaluator would not know, or be able to take into account, real world variables such as customer removal of a measure or a customer's decision to change heating or cooling habits as a result of savings achieved through installed measures. It is the Council's experience from decades of operating weatherization programs that these variables occur frequently and can substantially affect actual savings.

For example, the WeCare program evaluation claims natural gas savings of 19.3% for customers of Columbia Gas who received WeCare intervention. The Council's experience from more than 20 years of operating a nearly identical program is that savings as a result of these measures ranges widely from 8% for one home to 28% for another home.¹ Also, because Columbia Gas is not a party to this program, the evaluator could not have used actual customer savings to determine reduction in natural gas usage because customer information was not available to it. Due to lack of coordination between WeCare and the federal Weatherization program, the evaluator would not even be able to use real-world calculations to know if savings were a result of only WeCare measures or also reflected measures installed before or after by weatherization or any other program.

In response to Council Interrogatories, the Companies state that the evaluation only considered engineered savings as a result of measures installed by the WeCare program² but, once again, this assumes full benefit was achieved from each measure installed and is not a realistic calculation or reflection of program results. The Companies state in their responsive comments that the third party evaluator should determine which savings calculation method should be used. The Council submits that without Commission intervention, the Companies would be able to dictate that engineered savings be used either through direct action or insufficient funding for a real evaluation.

The Companies state in responsive comments that they "agree that there should be close coordination between the party that ultimately receives the contract to provide WeCare services and all agencies that administer the federal Weatherization programs in order to minimize unnecessary duplication of services." However, the Companies continue to offer no solution for the current lack of coordination and propose the same Request for Proposals process that has generated the current system under which there is no coordination with these organizations. The Companies propose to "minimize unnecessary duplication of services," an assertion that confuses the Council because sufficient options exist to completely eliminate unnecessary duplication of services. Under the current system, the Companies have no way of knowing which low-income households are even eligible for WeCare – as previously established in the Council's comments in this case – much less any system by which they can ensure that households are not served under multiple programs. Since all existing low-income weatherization programs are insufficient to serve community needs, it is imperative that there be no duplication of services in order to ensure maximum utilization and benefit and to prevent waste of

¹ It should be noted that the federal Weatherization program is more comprehensive than WeCare and achieves these savings with more substantial measures such as furnace replacement, further calling the Companies' reported savings into question.

taxpayer and ratepayer money. The Companies, in response to Supplemental Interrogatories, stated that communication between WeCare and the federal Weatherization program is “on an informal, as needed basis.” This lack of substantive communication is unacceptable and ensures an inefficient and ineffective program.

Finally, the Companies continue to insist that it is acceptable to operate a for-profit program at ratepayers’ expense when such a system is not necessary and does not ensure that ratepayers’ costs are held to a minimum. In defending their proposal for a Request for Proposals selection process, the Companies oppose any requirement that the program be operated on an actual cost basis with caps on administrative and management costs. In response to Interrogatories and Supplemental Interrogatories, the Companies were unable to provide even estimates of the amount of ratepayer funds kept as profit by its Contractor as compared to the amount spent on direct measures. As the Council asserted previously in its comments, it is unfair to ratepayers for this program to be operated for a profit when it could be awarded to and operated more efficiently on a not-for-profit basis. The Companies continue to imply that the RFP process creates an arms-length relationship between the Companies and its Contractor allowing the program to be operated efficiently by the Contractor. However, the Council believes the Companies have a responsibility to ratepayers to ensure the most efficient program possible, serving the most households at the lowest cost. The Council’s experience as a sub-contractor to Honeywell in 2003 and 2004; however, is that Company representatives were often present and participating in meetings between the Contractor Honeywell and the Council. The Council’s experience indicates that the relationship between the Companies and Honeywell appears to be much closer than simply arms-length.

9. What do you propose as the solution to your concerns in this case?

First, the Council urges the Commission to require that the WeCare evaluation utilize real savings and not engineered savings as the Companies have suggested. Without this requirement, there is no way to ever know the actual impact of WeCare intervention on a low-income household and, therefore, no way to know whether this program is of any value to ratepayers. The Council has previously established that use of actual savings is possible as the Companies maintain customer data and proper evaluation tools are available. This is why the Council advocates for use of the National Energy Audit Tool (NEAT) to conduct a comprehensive assessment of households. The NEAT tool and other tools and software maintained by the Companies and the Council can provide data necessary for an actual savings evaluation in a cost effective manner. Use of engineered savings has already demonstrated that it provides data that is highly suspect based on the Council’s experience from decades of providing and tracking weatherization services.

Within the application and in response to the Council’s Interrogatories and Supplemental Interrogatories, the Companies have made vague assertions that the low-income residential program will be operated in close coordination with the agencies operating the federal Weatherization program. However, to date, the Companies have not attempted to reach agreement with those agencies or their representatives regarding any current or future levels of cooperation or integration. Because of the similar nature of the federal

Weatherization program and the low-income residential program proposed here, it is absolutely essential that these programs be integrated in every way possible to prevent duplication of effort, waste of both taxpayers' and ratepayers' money, and to ensure accurate measures of effectiveness. The Council proposes that the only way to ensure that level of coordination is for the Commission to order that the low-income residential program be operated by the entities which administer the federal Weatherization program. Should it prove cumbersome for the Companies to contract with multiple entities or should the Companies not wish to do so, it would be acceptable and possible for the program to be contracted to the Council or to the Kentucky Association for Community Action (KACA) which could in turn administer the operation through the state's federal Weatherization operators.

Finally, the Council urges the Commission to set fixed administrative costs and management fees both for the Companies and for the amounts that Contractors and Sub-Contractors may charge over and above the actual cost of labor and materials. The Council believes it is unfair and unnecessary for profit to be made on the backs of ratepayers and to the disadvantage of low-income households. By eliminating or at least limiting the ability to take profit from the program, the Commission could ensure that more households are served for the approved funding levels because any realized savings would be applied to additional services. The Companies have stated that a Request for Proposals process is the best way to ensure a cost-effective program. However, that process was used under the current WeCare program and no party to the program knows or will disclose how much of the funding has been kept by Contractors as profit. The Council proposes that the Commission eliminate the "middle man" since the Contractor Honeywell, in at least some cases, has simply subcontracted work for the WeCare program. This structure creates inefficiency that is easily eliminated by contracting the program directly to the statewide network of not-for-profit agencies already operating the federally funded low-income Weatherization programs.

10. The Companies have objected to your proposal that the WeCare program be contracted to providers of the federal Weatherization program, stating there would be advantages to a competitive bid process and raising questions about the community action agencies' ability to keep the programs separate. How do you respond to that concern?

A competitive bid process is not necessary to ensure costs are contained. The Commission's order in this case can set fixed administrative and management costs through every level of contracting. Such a requirement ensures a cost effective program instead of hoping that a competitive bid process yields cost-effective bids. Any savings realized through a competitive bid process that results in the award of the contract to a for-profit entity would be lost in the resulting duplication of services. The Council also questions how competitive the bid process would be considering the Companies' existing business relationships with current Contractor Honeywell.

Finally, the operators of the federal Weatherization program in Kentucky and in the Companies' service territory have an extensive track record of effectively and efficiently

operating weatherization and energy programs such as the federal Weatherization program, the Kentucky Utilities Home Energy Assistance Program, REACH, and others. These programs in most cases are operated with substantial federal, state and other third-party oversight to ensure proper accounting and results management.

11. Does the Council possess the fiscal and administrative capacity to concurrently administer the WeCare, Weatherization and other programs while ensuring compliance with each program's unique requirements for eligibility and reporting?

Certainly. The Council already employs a Housing Services Unit which operates the federal Weatherization program and a network of more than 30 locations in five counties which conduct program intakes and provide direct services. The Council – and other community action agencies – operate dozens of programs each with unique requirements for eligibility and reporting. Intake software, such as the Councils Intake Referral Information System (IRIS), allows the Council and other program operators to determine eligibility and enroll participants based on each program's requirements. Community Action Agencies are uniquely positioned to perform such intake procedures and either enroll participants directly or refer them to other programs for which they may be eligible.

The Council also is experienced in administering programs which operate in multiple service territories with multiple providers. For example, the Council administers both the Kentucky Utilities Home Energy Assistance Program and the Columbia Gas Energy Assistance Program. Using its intake software, the Council and its operators are able to easily determine eligibility and ensure that Kentucky Utilities customers do not receive benefits from the Columbia Gas program and vice versa.

As an example of the Council's capacity – and other Weatherization operators' similar capacities – to ensure financial accountability, the Council utilizes a fund accounting system that segregates and tracks all funds received and expended in accordance with the requirements of each federal, state, local, and private funding source. The Council's fiscal capacity includes a current budget of approximately \$20 million. The Council employs more than 250 people and processes as many bi-weekly paychecks. The Council uses a modified accrual method of accounting and follows a July 1 - June 30 fiscal year of operations. The accounting system is completely automated. The Council is subject to the Single Agency Audit Act and annual audits are performed. There have been no disallowed or questioned costs for the past 20 years. The Manager, Fiscal Operations, is responsible for the day-to-day fiscal operations and reports directly to the Executive Director. Eight full-time employees, not including the Manager, staff the Division for Fiscal Operations.

12. On page 28 of the Companies' responsive comments, they outline a series of six criteria which should be met should the Commission agree that WeCare should be contracted to operators of the Weatherization program. Are those criteria acceptable to the Council?

Yes. The Council finds each of those criteria to be reasonable, consistent with current practices and easily complied with. Each criterion and my associated response are:

- *Program must meet energy efficiency, budgetary, and cost effectiveness goals of this filing;* – This is consistent with the purpose for all of the Council's arguments in this case.
- *Program may be coordinated with, but must be operated and accounted for separately from, other Weatherization Assistance Programs;* - As previously established, the Council and the other Community Action agencies already practice fund accounting and separately track each program. This is not only agreeable but necessary to comply with federal rules associated with the Weatherization program.
- *Program may serve LG&E and KU residential customers only;* - As previously stated, the Council already performs this function with existing programs from multiple utilities and WeCare would be no different.
- *Provider must meet all reporting requirements of the Companies;* - The Council and other Community Action agencies can meet all reporting requirements of the Companies.
- *Provider must be subject to company initiated audits to ensure appropriate utilization of and accounting funds;* - The Council and the other Community Action agencies are subject to the Single Agency Audit Act and annual audits of all programs are performed, including regular compliance reviews of programs. The Council has no objections to this criterion.
- *Provider must be subject to independent program evaluation initiated by the Companies to ensure energy savings and cost effectiveness objectives are achieved.* – The Council operates a number of programs which are evaluated by third parties and is able to participate in any such evaluation. However, the Council does not believe this evaluation will be effective unless it uses real savings and not engineered savings.

13. How is the low-income program different from other components of the Companies' overall demand side management proposal?

The low-income program is substantially different from the balance of the Companies' demand side management proposal in the population that it serves. Low-income

households, like all households, may benefit from an energy audit. However, low-income households – where decisions are regularly made between necessities such as food versus prescription drugs – could never afford installation of recommended measures.

By providing the recommended measures, the WeCare program is able to create energy savings that low-income households would otherwise never receive. Since low-income households face the greatest challenge in being able to pay their energy costs, the intervention also makes their utility bills more manageable. This reduces their dependence on assistance programs and reduces shutoffs and arrearages, therefore improving health and safety for low-income households and creating savings for ratepayers who otherwise carry the burden of write-offs due to non-payment.

Without the provision of direct assistance, low-income people will not install recommended measures. This means no savings of energy or costs and no purpose for the low-income demand side management program as there would be no demand side management.

14. In the absence of a Residential Low-Income Weatherization Program, what options are available for low-income households to manage consumption and make bills more affordable?

While low-income households eligible for WeCare may also be eligible for the federal Weatherization program, the federal program has faced many years of stagnant or reduced funding levels and is, therefore, unable to serve all eligible households. This is why it is especially important to ensure coordination between the two programs. Neither program – separately or combined – can serve all eligible households and meet community needs. Therefore, it is inexcusable for there to be duplication of services when efficiency could ensure service to more households.

In the absence of WeCare and the federal Weatherization program, there are only small programs that come and go through the years or that provide only minimal services, such as the Winterblitz event in Lexington. WeCare and federal Weatherization programs are the best hope for low-income households to realize energy savings.

15. Does this end your direct testimony?

Yes



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing document has been served on the following persons by United States mail:

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